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Operations Support

**THE APPEAL BOARD (FOR SPECIAL ACCESS
PROGRAMS)**

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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OPR: SAF/AAZ (Lt Col Husband)

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This Air Force Instruction implements AFPD 16-7, *Special Access Programs*; Executive Order 12968, *Access to Classified Information*, Sec 5.2(c) and DoD 5200.2-R, *DoD Personnel Security Program*, Change 3. The procedures contained within are effective immediately, but are not retroactive.

1. General.

1.1. This instruction establishes appeal board procedures governing unfavorable personnel security access decisions. It applies to all individuals, regardless of affiliation (military, civil service, or contractor), presently accessed to or being considered for access to any Air Force sponsored Special Access Program (SAP).

1.2. The US Air Force provides an administrative appeal to all qualified persons limited or denied access to Air Force SAPs. However, the following circumstances indicate the individual does not qualify for SAP access and appeal is not afforded and these persons cannot appeal a limitation/denial: (These are not adverse actions.)

1.2.1. Does not possess the “need-to-know”,

1.2.2. The employing organization has not adequately justified the individual contribution to the SAP,

1.2.3. Having a Personnel Security Investigation over 5 years old, OR

1.2.4. Refusing to sign a briefing statement to include agreeing to submit to counterintelligence scope polygraph examination, a random urinalysis or other approved drug abuse detection test.

1.3. The SAF Special Access Program Personnel Security Appeal Board (SAF SAP PSAB) represents the third and final level of appeal. One can only come before the Appeal Board after completing the first two steps in the appeal process which are outlined in AFI 16-701, paragraph 7.2. The first two steps in the process are (1) an unfavorable access eligibility determination by a central adjudica-

tion office and (2) upon review of any additional clarifying, rebutting, mitigating, of explanatory information, a decision by SAF/AQ that the unfavorable determination should stand. The appeal process and SAF SAP PSAB conform to all references, ensure the protection of Privacy Act Information, and are applied to both government and contractor persons.

1.4. The decision of the SAF SAP PSAB is final and concludes the appeal process.

2. The SAF SAP PSAB Composition .

2.1. The SAF SAP PSAB consists of three members:

2.1.1. The Director for Security and Special Programs Oversight, SAF/AAZ (Chair and Permanent Member). In his absence, the duties of Chair can be delegated to an individual within the Security and Investigative Programs Directorate in the grade of 05 or above.

2.1.2. The second and third members will be selected by SAF/AAZ from a pool of candidates nominated by Secretariat offices. Individuals in this pool must be at minimum grade of GS/GM 14 or 0-5 and accessed to one or more Air Force Special Access Programs. Neither their current or past positions may involve significant security related duties.

2.1.3. A non-voting member of the AF General Counsel's Office (SAF/GC) on an as needed basis.

2.1.4. A non-voting recorder from SAF/AAZ who maintains a file of all decisions and provides notification to the individual of the Appeal Board's decisions and reasons for sustaining or overturning the original access determination.

2.2. Prospective Board members shall disqualify themselves based on a conflict of interest, or a personal relationship with, or knowledge of the appellant.

3. Appellant Rules.

3.1. The SAF SAP PSAB is the only opportunity in the appeal process for an individual to appear personally. An appellant has the option to appear personally before the SAF SAP PSAB or to ask that the SAF SAP PSAB review the appeal without making a personal appearance. If the appellant elects to appear personally, the appellant may be accompanied by one person serving as counsel to the appellant. The appellant will complete the format at [Attachment 2](#) to indicate his/her elections concerning the Appeal Board.

3.2. Appellants may not call witnesses before the Appeal Board.

3.3. Presentation before the Appeal Board normally shall not exceed 2 hours.

4. Appeal Board Procedures.

4.1. Within 30 days of being denied access eligibility in the second level of the appeal process, the appellant will be provided notice of the opportunity to have the appeal heard by the SAF SAP PSAB. The appellant must return his election to SAF/AQ within 30 days of the date of receipt.

When an appellant elects a hearing (with or without a personal appearance), the SAF/AQ Security Director, Mission Guidance or other designated individual, will deliver the appeal package to the SAF SAP PSAB Chairperson. The appellant will be provided instructions for appearing before the Appeal Board, ([Attachment 2](#)).

4.2. The Appeal Board will normally hear appeals within 30 days of receiving the appellant's request for a hearing.

4.3. The Appeal Board will not call witnesses. The Board will not request or conduct further investigation. The Board must render a decision based solely on the documents contained in the Appeal package and information provided (orally or in writing) by the appellant.

4.4. Board members may ask the appellant appropriate questions.

4.5. Decisions will be made in executive session by majority vote made during a meeting with members present and after open discussion.

4.6. The Board Recorder (from SAF/AAZ) will tally the vote and prepare the reasons for the results (required by reference c, Sec.5.2.(5)) and return the package to the SAF/AQ Security, Director Mission Guidance or other designated individual.

4.7. The Board Recorder will send the appellant a letter stating the Appeal Board's decision and its reasons for upholding or reversing the decision to limit/deny the appellant SAP access. An information copy of this correspondence will be provided to SAF/AQ Security or other appropriate SAP office.

5. Appeal Package Disposition: Upon decision of the Appeal Board, the appeal package will be returned to the appropriate SAP Adjudication Office for case file retention.

6. Location and Costs.

6.1. The SAF SAP PSAB meets within the Washington D.C. area at a location designated by SAF/AAZ.

6.2. The employing organization is responsible for travel and TDY costs for the individual making a personal appearance before the Appeal Board. The individual is responsible for costs associated with their counsel.

WILLIAM A. DAVIDSON
Administrative Assistant

Attachment 1**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

Executive Order 12968, *Access to Classified Information*

DoD 5200.2-R, *DoD Personnel Security Program*

DoD 5220.22-M, *National Industrial Security Program Operating Manual* and DoD 5200.22-M-Sup 1, *Operating Manual Supplement*

AFI-16-701, *Special Access Programs*

Terms

Appeal Authority—As defined in reference c, SAF/AA serves as the Air Force “appeal authority” on behalf of the Secretary of the Air Force (agency head). The responsibility is further delegated to SAF/AAZ.

Appellants—As used in this instruction, the persons entitled to submit an appeal.

Counsel—As used in this instruction, counsel need not be an attorney.

Attachment 2

FORMAT FOR
REQUEST FOR APPEAL BOARD REVIEW

FROM: *(Insert your name and mailing address)*

SUBJECT: Request for Appeal Board Review

I request a Secretary of the Air Force Special Access Program Personnel Security Appeal Board (SAF SAP PSAB) review of the decision to deny, revoke or limit my access to Special Access Programs.

I request *(check a or b)*:

a) The SAF SAP PSAB to review the appeal package (You may attach additional mitigating documentation; I will not make a personal appearance--See Note.)

b) To make a personal appearance before the SAF SAP PSAB

If b is checked, check either 1) or 2)

1) I plan to have counsel (at my own expense) appear with me at the SAF SAP PSAB.

2) I do not plan to have counsel appear with me.

NOTE: The Adjudicative Reviewer will forward your case file and any other documentation you or other agencies/personnel have provided previously to the Board. You do not need to send duplicate copies.

The SAF SAP PSAB will meet at a suitable location within the Washington DC area.

If you plan to appear personally, please provide the following information so that you may be contacted by the Adjudicative Reviewer who will provide the date, time and exact location of the SAF SAP PSAB meeting. (You must notify your counsel.)

Work Phone: _____

Home Phone: _____

This notice must be returned **no later than** _____ to:

*ATTN: (Name, if known), ADJUDICATION REVIEWER
SAF/AQ Security
1060 AF Pentagon
Washington DC 20330-1060

or

FAX Number (703) 553-0143.

(You must sign your name here)

(Enter Date)

* This address and phone number may be different depending on the designated cognizant security agencies for specific SAPs.

Attachment 3

**FORMAT FOR
INSTRUCTIONS FOR APPEAL BOARD APPEARANCES**

FROM: (Name and Address of Advising Activity)

SUBJECT: Instructions for Appeal Board Appearance

TO: (Name and Address of Appellant)

1. You indicated on AFI 16-702, attachment 2, that you wanted to appear personally before the SAF Special Access Program Personnel Security Appeal Board.

2. The SAF SAP PSAB has scheduled your appeal as follows:

Date _____ Time _____

Location _____

(Pentagon or Crystal City, VA)

Note: For your convenience, a map is attached.

Should this time be inconvenient, please call _____ at _____ to provide the reason(s) for delay and rescheduling information. Postponement of the appearance can be granted only for justified reason(s).

3. The appellant may:

Be represented by one counsel or personal representative at his/her own expense

Make an oral presentation not to exceed two hours

Submit additional relevant documents not already provided to the Appeal Board

4. The appellant may not:

Call witnesses

Question the Board concerning the substance of the appeal

5. Travel costs for the appellant will be the responsibility of the employing organization.

6. The Appeal Board members will have reviewed your case file. Therefore, we suggest you use your allotted time to clarify your reasons for overturning the denial or suspension or providing additional information. We recommend you not repeat material contained in your file or in documents you previously provided. At the end of the personal appearance, you may make a closing statement.

7. For further information concerning Appeal Board protocol, contact

_____ at _____.

SIGNATURE BLOCK

Secretary

Special Access Program Appeal Board